IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18/03/2004

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THE HONOURABLE MR. JUSTICE P.K. MISRA

WRIT PETITION NO.7199 OF 1997

Bhavani Mills Ltd.,
No.362, Pollachi Road,
Coimbatore-21.
rep. by its Managing Director,
Mr.Y. Anand Kumar .. Petitioner

-Vs-

1. The Chairman,
The Tamil Nadu Electricity Board,
Anna Salai, Chennai 600 002.

2. The Superintending Engineer,
Coimbatore Electricity
Distribution South,
Tamil Nadu Electricity Board,
Coimbatore-12. .. Respondents

Petition filed under Article 226 of the Constitution of India for the issuance of Writ of Certiorari as stated therein.

For Petitioner : Mr.R. Gandhi
Senior Counsel for
Mr.M. Kamalanathan

For Respondents : Mr.N. Srinivasan
for TNEB

:O R D E R

Heard the learned counsels appearing for the parties. Prayer in this writ petition is to quash the High Tension Bill raised by the second respondent for the month of April, 1997 dated 30.4.1997 for Service No.255 of the petitioner Mill at No.362, Pollachi Road, Coimbatore.

2. It is claimed by the petitioner that even assuming that there was some defect in the meter, the respondents 1 and 2 should not have decided about the amount payable without taking recourse to Section 26(6) of the

Indian Electricity Act, 1910. Section 26(6) of the Act is as follows :-

 26(6) Where any difference or dispute arises as to whether any meter referred to in sub-section (1) is or is not correct, the matter shall be decided, upon the application of either party, by an Electrical Inspector; and whether the meter has, in the opinion of such Inspector ceased to be correct, such Inspector shall estimate the amount of the energy supplied to the consumer or the electrical quantity contained in the supply, during such time,not exceeding six months, as the meter shall not, in the opinion of such Inspector, have been correct; but save as aforesaid, the register of the meter shall, in the absence of fraud, be conclusive proof of such amount or quantity:
PROVIDED that before either a licensee or a consumer applies to the Electrical Inspector under this sub-section, he shall give to the other party not less than seven days, notice of his intention so to do.

3. A bare reading of the aforesaid provision makes it clear that if the meter is defective, such dispute is to be resolved by the Electrical Inspector. This position is now well settled in view of several decisions of the different High Courts, namely AIR 1987 MP 276 (M/s. REGAL THEATRE AND OTHERS v. M.P.E.B., RAMPUR AND OTHERS), AIR 1995 BOMBAY 79 (KHURSHED SORABJI COOPER v. BOMBAY ELECTRIC SUPPLY AND TRANSPORT UNDERTAKING), AIR 1997 ORISSA 14 (M/s. HOTEL NILACHAL ASHOK v. EXECUTIVE ENGINEER, ORISSA STATE ELECTRICITY BOARD AND OTHERS), AIR 19 89 Kar. 279 (PARAYANKANDIYIL ERAVATH KANAPRAVAN KALLIANI AMMA AND OTHERS v. K. DEVI AND OTHERS) and AIR 1989 Del. 219 (H.D. SHOURIE v. MUNICIPAL COROPORATION OF DELHI AND ANOTHER). As a matter of fact, latter two decisions had been relied upon by the learned single Judge of this Court in the decision reported in 2000(III) CTC 137 (A.A. MOHD. RAFFI v. TAMIL NADU ELECTRICITY BOARD, REP. BY ITS CHAIRMAN AND 2 OTHERS).
4. In view of the aforesaid well settled position, the impugned proceedings are to be quashed. It is directed that the matter shall be now decided by the Electrical Inspector. Necessary reference shall be made by the respondents. It goes without saying that thereafter the matter will be decided by the Electrical Inspector in accordance with law. The matter shall be decided by the Electrical Inspector as expeditiously as possible, preferably within a period of four months from the date of all the relevant papers. Thereafter the amount already paid by the petitioner shall either be refunded or adjusted, as the case may be, in accordance with law. There will be no order as to costs.

Index : Yes
Internet : Yes
dpk

To
1. The Chairman,
The Tamil Nadu Electricity Board,
Anna Salai, Chennai 600 002.

2. The Superintending Engineer,
Coimbatore Electricity Distribution South,
Tamil Nadu Electricity Board, Coimbatore-12.